



सीमा शुल्क आयुक्त का कार्यालय,
नवीन सीमा शुल्क सदन, नया कंडला
OFFICE OF THE COMMISSIONER OF CUSTOMS,
NEW CUSTOM HOUSE, NEW KANDLA-370 210 (GUJARAT)
Phone No: 02836-271468/469, Fax No. : 02836-271467.

फा.सं./ F.No.S/6-88/Ref/19-20

आदेश की दिनांक / Date of Order: 22/10/2019

जारी करने की दिनांक/ Date of Issue: 22/10/2019

पारित कर्ता/ Passed by: - मुकेश चड्ढा / Mukesh Chadha

सहायक आयुक्त/Assistant Commissioner,

सीमा शुल्क सदन, कंडला/ Customs House, Kandla.

आदेश में मूल सं/ ORDER-IN- ORIGINAL NO: KDL/AC/MC/125/Ref/2019-20

जिसके लिये यह प्रतिलिपि जारी की जाती है उस व्यक्ति के उपयोग के लिए यह निः शुल्क दी जाती है।

This copy is granted free of charge for the use of person to whom it is issued.

इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम-1962 की धारा-128 के तहत उक्त अपील की प्रति के साथ, आयुक्त के कार्यालय 7 वीं मंजिल मृदुल टॉवर, टाइम्स ऑफ इंडिया बिल्डिंग के पास, आश्रम रोड, अहमदाबाद, गुजरात 380009 में इस आदेश के जारी होने की तिथि से साठ दिनों के भीतर दायर की जानी चाहिए।

An appeal against this order lies with the Commissioner (Appeals), having office at 7th floor, Mridual Tower, Near Times of India Building, Ashram Road, Ahmedabad, Gujarat - 380 009 in terms of section 128 of the Customs Act, 1962. It should be filed within sixty days from the date of communication of this order.

यह अपील सीमा शुल्क नियमावली-1982 के नियम-3 के उपनियम-(2) में निर्दिष्ट व्यक्ति द्वारा हस्ताक्षरित निर्धारित प्रारूप में दायर किया जाना चाहिए। उक्त अपील को दो प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियां संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। संबन्धित सभी दस्तावेज चार प्रतियों में भेजे जाने चाहिए। उक्त अपील, अपील के उचित समय और दिनांक को कमिश्नर (अपील) कार्यालय, अहमदाबाद में व्यक्तिगत रूप से प्रस्तुत किया जाए।

An appeal should be filed in format prescribed. It shall be signed by the person specified in sub-rule (2) of rule 3 of the Customs Appeals Rules, 1982. It shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents should be forwarded in quadruplicate. The appeal shall be presented in person to the office of the Commissioner (Appeals), Ahmedabad, but the date of receipt in the office will be relevant date of appeal whether in time or not.

अनुसूची-1 में न्यायालय शुल्क अधिनियम, 1870 के मद सं. 6 के तहत इस आदेश की प्रतिलिपि साथ निर्धारित 5/- रुपए का स्टाम्प कोर्ट फीस के रूप में वहन करना चाहिए।

The copy of this order attached herein should bear a Court Fee Stamp of Rs. 5/- (Rupees five only) as prescribed under schedule-I, item 6 of the Court Fees Act, 1870.

उक्त अपील पर 5/- (पाँच रुपये मात्र) का न्यायशुल्क टिकट लगा होना चाहिए तथा इसके साथ उक्त अपील की एक प्रति और इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर 5/- (पाँच रुपये मात्र) का न्यायशुल्क टिकट अवश्य लगा हो संलग्न की जाये।

The appeal should bear a court fee stamp of Rs.5.00 (Rupees five only) and it must be accompanied by A copy of appeal and this copy or any other copy of this order which must bear a court fee stamp of Rs. 5.00 (Rupees five only).

यदि कोई व्यक्ति इस आदेश के विरुद्ध अपील करना चाहता है तो, उक्त अपील में मांगा गया शुल्क अथवा उस पर लगायी गयी शास्ति जमा करने और उक्त अपील के साथ ऐसे भुगतान का सबूत प्रस्तुत करने पर विचाराधीन रहेगी, ऐसे करने में असफल होने पर उक्त अपील सीमा शुल्क अधिनियम-1962 की धारा-128 के प्रावधानों के गैर अनुपालन करने के लिए अस्वीकृत किए जाने योग्य होगी।

Any person desirous of appealing against his decision or order shall pending the appeal, deposit the duty demanded or the penalty levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be rejected for non compliance of the provisions of Section 128 of the Customs Act, 1962.

Sub: Refund application of Customs duty paid in excess on ship stores and bunkers concerning coastal conversion of vessel MT. "MIRACLE" at Kandla port on 10.09.2019 filed by M/s. Atlantic Shipping pvt. Ltd. Golden Arcade, office no. 201, 2nd floor, plot no.141.142, sector-8., Gandhidham-Kutch-Gujarat-370201-reg.

Spds (EDS)
- Pcs necessary
action
28
24-10-2019

BRIEF FACTS OF THE CASE:

1/- M/s. Atlantic Shipping pvt. Ltd. Golden arcade, office no. 201,2nd floor, plot no.141.142, sector-8, Gandhidham-Kutch-Gujarat-370201 (Hereinafter referred to as "the claimant") filed refund claim on dtd. 15.10.2019 to this office for refund of Customs duty paid in excess on ship stores and bunkers concerning coastal conversion of vessel MT. MIRACLE at Kandla port on 10/09/2019, for an amount of Rs. 134338/- under the provisions of Section 27 of the Customs Act, 1962.

2/- The claimant has claimed the refund of amount of excess duty paid by them in respect of manual Bill of Entry no. 000027 dated 23.09.2019 on conversion of vessel MT. "MIRACLE" from foreign run to coastal run on 10.09.2019 at Kandla. The claimant has filed the said refund claim along with the following documents on final assessment of the said bill of entry.

- Refund application in prescribed format.
- Worksheet showing the details of refund amount.
- Certificate dated 10.09.2019 issued by the Preventive Officer of Customs, Custom House, and Kandla certifying that the Bunkers will be consumed during the costal voyage from Kandla to Mangalore/W. Island/Tuticorin/WCI/ECI.
- Office Note dtd. 06.09.2019 from the Deputy Commissioner (Gr.I), Custom House, Kandla informing that M/s. Atlantic Shipping Pvt. Ltd., Gandhidham has been permitted for the conversion of their vessel from foreign run to coastal run.
- Another certificate dated 26.08.2018 issued by the Preventive Officer of Customs, Customs House, Kandla regarding vessel converted from foreign run to costal run at 1215 hrs. on dt. 10.09.2019.
- Certificate dtd. 22.09.2019 from the Preventive Boarding Officer showing the bunkers at the time of reversion.
- Certificate dtd. 22.09.2019 from the Preventive Officer showing the bunkers on board at the time of reversion from coastal to foreign.
- Certificate dtd. 22.09.2019 of the P.O and Superintendent, Customs, Tuticorin stating the Vessel MT. "MIRACLE" from coastal run to foreign run.
- Original manual copy of TR-6 challan no. 630 dated 24.09.2019 for duty payment of Rs. 5,97,985/-.
- Original Bill of entry (assessed finally on dtd. 01.10.19)
- Letter dated 26.08.18 Issued by M/s Atlantic Shipping Pvt. Ltd. addressed to the Assistant Commissioner of Customs, Custom House Kandla seeking permission to convert the vessel from foreign run to costal run at Kandla.
- C.A. certificate dated 04.10.2019 issued by Tendolkar and Co. chartered accountants certifying details of Customs Duty paid, Customs Duty determined and excess Customs Duty paid and confirming that the incidence of Customs Duty paid in excess was not passed on to any other person etc.
- Ledger Account of Customs Duty receivable for period 01.04.19 to 31.03.2020 showing closing balance as Rs. 134338/-.

Findings:

3/- I have carefully gone through, the case records submitted by the claimant M/s. Atlantic Shipping pvt. Ltd. Golden Arcade, office no. 201, 2nd floor, plot no.141.142, sector-8, Gandhidham-Kutch-Gujarat-370201. On behalf of the Vessel Owner, M.V.SIDRA RAS LAFFAN was converted from foreign run to costal run at 1710 hrs on 26.08.2018 at Kandla port and the relevant manual Bill of Entry no 000021 dated 07.09.18 was assessed finally by the Assistant Commissioner of Customs, Kandla. The assessed Bill of Entry showing duty liability details are as under:

| | |
|------------------------------|--------------|
| PROVISIONAL DUTY PAID AMOUNT | = 5,97,985/- |
| FINAL DUTY PAYABLE AMOUNT | = 4,63,647/- |
| RENFUND AMOUNT | = 1,34,338/- |

4/- I find the above Customs Duty Rs. 5,97,985/- has been paid/deposited by the claimant vide TR-6 challan no. 630 dt. 24.09.2019 at Customs, House, Kandla. The same was verified and found in order.

5/- Now, I proceed to ascertain as to whether the claimant has fulfilled all the conditions as envisaged in Section 27 of the Customs Act 1962 thereby making them eligible for the refund. I find that as per Section 27 of the Customs Act 1962, the limitation of one year shall be computed from the date of final assessment in cases where the duty has been paid finally. As such the said claimed has been filed well within the time period and is not time barred. The refund claim was scrutinized under section 27 of Customs Act 1962 and is found in order.

6/- I find the claim is not barred by unjust enrichment, since the claimant has submitted a declaration and Chartered Accountant Certificate dated 04.10.2019 issued by Tendolkar & Co. Chartered Accountants, C.A. certified details of Customs Duty paid Customs Duty determined and excess Customs Duty paid and confirming that the incidence of Customs Duty paid in excess was not passed on to any other person etc, further I find the claimant has furnished a Ledger of Atlantic Shipping Pvt. LTd. for the period 01.04.19 to 31.03.20 showing the Closing Balance amount as Rs. 134338/- which appears to be receivable under the head of Customs Charges. As such I find that the claim is not barred by unjust enrichment, along with party's declaration.

7/- As per final assessment dated 01.10.19 for the above conversion of foreign run vessel to costal run, Duty payable amounts to Rs. 463647/- Whereas actual amount of duty paid, as per provisional assessment, was for Rs. 597985/- Vide challan no.630 dated 24.09.2019. Hence, the claimant is eligible for refund of excess duty paid amounting to Rs. 1,34,338/-.

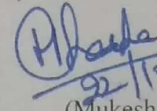
8/- The claim has been scrutinized in terms of section 27 of Customs Act, 1962 and is found in order.

In view of the foregoing paras, I find that the claimant has fulfilled all the conditions as laid down in Section 27 of the Act and therefore the claimant is eligible for the refund of Rs. 134338/-.

In view of the above discussion, I pass the following order-

:O R D E R:

- i. I sanction refund of Rs. 134338/- (One lakh Thirty Four thousand Three Hundred Thirty Eight only) being excess duty paid and claimed by M/s. Atlantic Shipping pvt. Ltd. Golden arcade, office no. 201, 2nd floor, plot no.141.142, sector-8, Gandhidham-Kutch-Gujarat-370201 under Section 27 of the Customs Act 1962.


22/10/19

(Mukesh Chadha)
Assistant Commissioner (Refund)
Custom House, Kandla

Dated: 22/10/2019

F. No. S/6-88/REF/2019-20

By Registered Post/Hand Delivery

To
M/s. Atlantic Shipping pvt. Ltd.
Golden Arcade, office no. 201, 2nd floor,
Plot no.141.142, sector-8,
Gandhidham-Kutch-Gujarat-370201.



Copy to:

1. The Deputy/Asstt. Commissioner (RRA), Custom House, Kandla.
2. The Assistant/Dy. Commissioner (Recovery), Customs House, Kandla.
3. Guard file Refund Section, Kandla. **EDI**